



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FCP/164675

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 16, 2015, under Wis. Admin. Code § DHS 10.55, to review a decision by the Waukesha County Health and Human Services in regard to Medical Assistance, a hearing was held on April 14, 2015, at Waukesha, Wisconsin.

The issue for determination is whether the agency correctly discontinued the petitioner from the Family Care Program when she failed to verify her assets.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

;

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Nicholas Kusch

Waukesha County Health and Human Services  
514 Riverview Avenue  
Waukesha, WI 53188

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter

Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Waukesha County.
2. On February 17, 2015 the petitioner informed the agency that her husband had died on February 4, 2015. She further informed the agency that her husband had two life insurance policies. One

life insurance policy was from [REDACTED] with an approximately death value of \$50,000. The other life insurance was from [REDACTED] with \$20,000 in spouse/dependent life.

3. On February 18, 2015 the agency sent the petitioner a request for verification. The agency specifically requested verification of the group/term policy – [REDACTED] bank statements from three [REDACTED] Checking Accounts, and the amount received each month in veteran benefits. This verification was due on or before March 6, 2015.
4. The petitioner never provided all of the requested verification.
5. On March 12, 2015 the agency provided the petitioner notice that effective April 1, 2015 she would be discontinued from the Family Care Program due to failure to provide the requested verification.
6. At the hearing, the petitioner's daughter credibly testified that the petitioner had received three checks from the life insurance policies. The first check was in the amount of \$100,192 from the [REDACTED] policy. She received two checks from [REDACTED]; each check was in the amount of \$10,009.44. The checks were not yet cashed. She was in the process of meeting with an attorney to set up a special needs trust prior to cashing these checks.

### **DISCUSSION**

The Family Care program, which is supervised by the Department of Health Services, is designed to provide appropriate long-term care services for elderly or disabled adults. It is authorized in the Wisconsin Statutes, §46.286, and is described comprehensively in the Wisconsin Administrative Code, Chapter HFS 10.

As part of the FC and MA review process, the county agency may ask the applicant to verify income or assets. That was initially done in this case. When a recipient does not supply appropriately requested verification, the failure to supply such verification can be a legitimate basis for discontinuance of the case. Wis. Admin. Code §DHS 10.32(4) & 10.31(5); *MA Handbook (MEH)*, §20.2-20.3, seen online at <http://www.emhandbooks.wi.gov/meh-ebd/>.

In this case the petitioner's daughter acknowledged that she had not provided the requested verification to the agency. The petitioner's daughter testified that her mother was in the ICU, and that she was trying to handle her parents' affairs to the best of her abilities, but it was very difficult given her mother's condition and the fact that her father had recently passed away. I note that the petitioner's daughter received three large checks from life insurance policies. She testified that she had not yet cashed these checks because she was in the process of meeting with two attorneys in an attempt to set up a special needs trust in order to maintain her mother's eligibility for the Family Care Program. The agency points out that the payouts from life insurance policies will put the petitioner over the asset limit for the Family Care Program. The only issue in this appeal is whether the agency correctly closed the petitioner's case for failing to provide verification. The petitioner's daughter admits she was able to provide the verification requested, but failed to do so in a timely manner. Thus, the agency's action was correct in this case. If the petitioner's daughter believes that her mother continues to be eligible for the Family Care Program, the petitioner may reapply for the program. At that point, the agency can determine whether the petitioner is over the asset limit and whether there is a divestment.

### **CONCLUSIONS OF LAW**

The agency correctly discontinued the petitioner from the Family Care Program for failing to provide verification.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 24th day of April, 2015

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\sCorinne Balter  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on April 24, 2015.

Waukesha County Health and Human Services  
Office of Family Care Expansion